

SECOND REGULAR SESSION

# SENATE BILL NO. 760

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Pre-filed December 15, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3463S.011

## AN ACT

To repeal section 490.733, RSMo, and to enact in lieu thereof one new section relating to hazardous materials.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 490.733, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 490.733, to read as follows:

490.733. 1. As used in this section, the term "hazardous materials" means  
2 any substance which is capable of posing an unreasonable risk to health, safety  
3 and property. It shall include any controlled substance or controlled substance  
4 analogue as defined in section 195.010, RSMo, or any substance which by its  
5 nature is explosive, flammable, corrosive, poisonous, radioactive, a biological  
6 hazard or a material which may cause spontaneous combustion. It shall include,  
7 but not be limited to, substances listed in the Table of Hazardous Materials  
8 contained in the Code of Federal Regulations-Title 49 and the National Fire  
9 Protection Association's Fire Protection Guide on Hazardous Materials.

10 2. Notwithstanding the provisions of section 575.100, RSMo, [and with the  
11 approval of the affected court,] any law enforcement officer who seizes hazardous  
12 materials as evidence related to a criminal investigation may collect  
13 representative samples of such hazardous materials, and destroy or dispose of,  
14 or direct another person to destroy or dispose of the remaining quantity of such  
15 hazardous materials. **Once the law enforcement agency has documented**  
16 **the hazardous materials as provided in subsection 3 of this section, the**  
17 **agency may dispose of the representative samples of such materials.**

18 3. **Due to the danger posed by exposure to representative**  
19 **samples of hazardous materials,** in any prosecution, [representative samples

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 of hazardous materials accompanied by] photographs, videotapes, laboratory  
21 analysis reports or other means used to verify and document the identity and  
22 quantity of [the material] **hazardous materials** shall be deemed competent  
23 evidence of such hazardous materials and shall be admissible in any proceeding,  
24 hearing or trial as if such materials had been introduced as evidence.

25 4. In any prosecution for violation of chapter 195, RSMo, in which the  
26 weight or quantity of a controlled substance is an element of the offense, the  
27 weight or quantity of the controlled substance necessary to prove the element of  
28 the offense shall be held as evidence; except that, any amount of controlled  
29 substance in excess of that which is necessary to prove the offense may be  
30 destroyed at the direction of the seizing law enforcement officer. Photographs,  
31 videotapes and laboratory analysis reports shall be admissible in any proceeding,  
32 hearing or trial as if such excess amount of controlled substances had been  
33 introduced as evidence.

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Bill

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